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DISTRICT MUNICIPALITY

Province of the Eastern Cape

progress through development

REVENUE BY-LAWS

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REVENUE BY-LAWS

PART I: GENERAL

SECTION 1: OBJECTIVE OF BY-LAWS

- (a) These by-laws are formulated and gazetted to give proper effect to the local municipality's policies on:
- tariffs;
 - credit control and debt collection; and
- (b) These by-laws must be read in conjunction with the policies referred to, and within the applicable provisions of the following legislation:
- Local Government: Municipal Systems Act No.32 of 2000;
 - Local Government: Municipal Finance Management Act No.56 of 2003; and
- (c) The relevant sections of the legislation referred to above are appended to:
- Part 1 of the tariffs policy, and
 - Part 24 of the credit control and debt collection policy.
- (d) Copies of these policies, with the relevant annexures setting out the legal requirements and legal framework within which the by-laws must operate, appear on the municipality's website and are available free of charge on application to the Office of the Municipal Manager.

SECTION 2: DEFINITIONS

"Annual budget" shall mean the budget approved by the municipal council for any particular financial year, and shall include any adjustments to such budget.

"By-law" shall mean legislation passed by the council of the municipality, and which shall be binding on the municipality and on the persons and institutions to which it applies.

"Consumer price index" shall mean the CPIX as determined and gazetted from time to time by the South Bureau of Statistics.

"Councillor" shall mean a member of the council of the municipality.

"Financial year" shall mean the period starting from 1 July in any year and ending on 30 June on the following year.

"Integrated development plan" shall mean a plan formulated and approved as envisaged in Section 25 of the Municipal Systems Act 2000.

"Local community" or "community", in relation to the municipality, shall mean that body of persons comprising the residents of the municipality, the ratepayers of the municipality, any civic organizations and non-governmental, private sector or labour organizations or bodies involved in local affairs within the municipality, and visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality.

"Market value" in relation to a property shall mean the value of the property as determined in accordance with Section 46 of the Property Rates Act 2004.

"Month" means one of twelve months of a calendar year.

"Municipal council" or "council" shall mean the municipal council as referred to in Section 157((1) of the Constitution.

"Municipal entity" shall mean ((a) a company, co-operative, trust, fund or any other corporate entity established in terms of any applicable national or provincial legislation, and which operates under the ownership control of one or more municipalities; or (b) a service utility.

"Municipal manager" shall mean the person appointed in terms of Section 82 of the Municipal Structures Act, 1998.

"Multiple purposes" in relation to a property, shall mean the use of a property for more than one purpose.

"Municipal tariff" shall mean a tariff for services which the municipality may set for the provision of a service to the local community, and may include a surcharge on such service. Tariffs for minor tariffs shall mean all tariffs, charges, fees, rentals or fines levied or imposed by the municipality in respect of services supplied.

"Person" shall include an organ of state, and an "organ of state" shall mean an organ of state as defined in Section 239 of the Constitution.

"Property" shall mean (a) immovable property registered in the name of a person, including in the case of a sectional title scheme a sectional title unit registered in the name of a person ;(b) a right registered against immovable property in the name of the person, but excluding a mortgage bond registered against the property; (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; and (d) public service infrastructure.

PART II: TARIFFS

SECTION 1: MINOR TARIFFS

- (a) All minor tariffs shall be standardized within the municipal region.
- (b) All minor tariffs shall be approved by the council in each annual budget, and shall, when deemed appropriate by the council, be subsidized by general revenues, particularly when the tariffs will prove uneconomical when charged to cover the cost of the service concerned, or when the cost cannot accurately be determined, or when the tariff is designed purely to regulate rather than finance the use of the particular service or amenity.
- (c) All minor tariffs over which the municipality has full control, and which are not directly related to the cost of a particular service, shall annually be adjusted at least in line with the prevailing consumer price index, unless there are compelling reasons why such adjustment should not be effected.
- (d) The following services shall be considered:
 - Property rentals
 - Land rentals
 - Sale of livestock or plants
 - Photocopies and data saving devises
 - Tender documents
 - Parking fees
 - Internal rentals
 - Access to information search fees
 - Certificate for acceptability – Environmental Health
- (e) Market-related rentals shall be levied for the lease of municipal properties unless otherwise specifically approved by Council.

PART III: CREDIT CONTROL AND DEBT COLLECTION

SECTION 1: OBJECTIVE: CONSTITUTIONAL OBLIGATIONS

The council of the municipality, in adopting this policy on credit control and debt collection, recognizes its constitutional obligations to develop the local economy.

SECTION 2: ARRANGEMENTS FOR PAYMENT OF ARREAR ACCOUNTS

Allowing defaulting accountholders to make arrangements for the payment of arrear accounts shall be at the discretion of the municipal manager.

Each defaulting accountholder shall be allowed a maximum period of 3 (three) months within which to pay an arrear account, together with the interest raised on such account, and it shall be a condition for the conclusion of any arrangement that the accountholder is bound to pay every current account in full and on time during the period over which such arrangement extends.

If an accountholder breaches any material term of an arrangement, the balance of the arrear account, together with the balance of interest raised on such account, shall immediately become due and payable to the municipality, and if the accountholder defaults on such payment, the municipal manager shall forthwith hand such account over for collection.

An accountholder who has breached an arrangement as set out above shall not be allowed to make any further arrangements for the payment of arrear accounts.

SECTION 3: QUERIES BY ACCOUNTHOLDERS

In the event of an accountholder reasonably querying any item or items on the account, no action shall be taken against the accountholder provided the accountholder has paid by due date an amount equal to the monthly average monetary value of the three most recent unqueried accounts, as well as all unqueried balances on such account, and provided further such query is made in writing by the accountholder or is recorded in writing by the municipal manager on behalf of the accountholder on or before the due date for the payment of the relevant account.

SECTION 4: DISHONOURED AND OTHER UNACCEPTABLE CHEQUES

If an accountholder tenders a cheque which is subsequently dishonoured by or is found to be unacceptable to the accountholder's bankers, the municipal manager shall – in addition to taking the steps contemplated in this policy against defaulting accountholders – charge such accountholder the penalty charge for unacceptable cheques, as determined by the banking institution from time to time..

SECTION 5: DELEGATION OF RESPONSIBILITIES BY MUNICIPAL MANAGER

The municipal manager, including any person acting in such capacity, shall be responsible to the council for the implementation of this policy and its attendant by-laws but – without in so doing being divested of such responsibility – may delegate in writing all or any of the duties and responsibilities referred to in these by-laws to any other official or officials of the municipality, and may from time to time in writing amend or withdraw such delegation(s).

SECTION 6: ROLE OF MUNICIPAL MANAGER

Section 100 of the Municipal Systems Act 2000 (see part 24 below) clearly assigns the legal responsibility for implementing the credit control and debt collection policies and by-laws to the municipal manager.

In practice, however, the municipal manager will inevitably delegate some or many of the responsibilities specifically assigned to this office in the by-laws, as it will be administratively impossible for the municipal manager to perform the numerous other functions of this office as well as attend to frequently recurring administrative responsibilities. However, such delegation does not absolve the municipal manager from final accountability in this regard, and the municipal manager will therefore have to ensure that a proper internal reporting structure is established and consistently implemented so that the day-to-day actions of and results from the credit control and debt collection programme are properly monitored and supervised.

SECTION 7: ROLE OF COUNCILLORS

Section 99 of the Systems Act 2000 places the important legal responsibility on the executive mayor or executive committee, as the case may be, of monitoring and supervising the application of the present policy and the attendant by-laws, and of reporting to the council on the extent and success of credit control actions.

In order to maintain the credibility of the municipality in the implementation of the present policy and the attendant by-laws, it is essential that councillors should lead by example. Councillors, by adopting this policy, therefore pledge, not only their unqualified support for the policy, but their commitment to ensuring that their own accounts will at no stage fall into arrears.

SECTION 8: COLLECTION OF ARREAR ACCOUNTS

Where a debtor's account is 30 days overdue a letter of demand are sent to the debtor requesting payment within 7 days of date of letter. Should there be no response a final notice will be issued and a demand for payment of the outstanding amount within a period of 14 days failing the debtor will be handed over to attorneys for collection.

SECTION 9: INTEREST ON ARREARS AND OTHER PENALTY CHARGES

Interest shall be charged on all arrear accounts at the prevailing overdraft rate offered by the municipality's bankers plus 2 (two) percentage points.

If the municipality uses more than one banking institution it shall for purposes of determining the interest on arrear accounts apply the overdraft rate offered by the institution with which its primary bank account is placed.

Interest shall be calculated on a daily basis. For purposes of determining arrear amounts, all amounts unpaid including interest previously raised and penalty charges, but excluding value added tax, shall be taken into account.

SECTION 10: UNCOLLECTABLE ARREARS

The effective implementation of the present policy also implies a realistic review of the municipality's debtors book at the conclusion of each financial year. The municipal manager shall as soon as possible after 30 June each year present to the council a report indicating the amount of the arrears which it is believed is uncollectable, together with the reasons for this conclusion.

The council shall then approve the write off of such arrears, if it is satisfied with the reasons provided.

SECTION 11: BY-LAWS TO BE ADOPTED

By-laws shall be adopted to give effect to the council's credit control and debt collection policy.

These by-laws deal severely with defaulters, and their application requires a considerable degree of commitment from the municipal manager and his or her administration, as well as from the municipality's political structures. For these by-laws to ensure the avoidance of financial misfortunes for the municipality, and to lead to sustained financial stability, their application will have to receive the constant attention of all the municipality's key role-players and decision makers. If these by-laws are not constantly and consistently applied, from month to month and from year to year, the municipality's political and administrative credibility will be severely impaired, and it may not be able to avert financial collapse in the long run.

The by-laws comply with the requirements of the Municipal Systems Act 2000 and the Municipal Finance Management Act 2003.

SECTION 12: LEGAL REQUIREMENT

It is essential for the protection of the municipality's interests that the provisions of particularly the Municipal Systems Act 2000, in so far as it provides additional debt collection mechanisms for municipalities, be diligently enforced. At the same time, both the council and the administration must note the obligations, which the municipality has towards the community in respect of customer care and relations.

The legal requirements are contained in the Municipal Systems Act (specifically Sections 95 to 103 and Section 118), and the Municipal Finance Management Act (specifically Section 64).